

Committee on Ways and Means

H.R. 3 – Safe, Accountable, Flexible, Efficient Transportation: Legacy for Users

Summary of Tax Title

REAUTHORIZATION

- **Reauthorization.** Reauthorizes the expenditure authority of the Highway Trust Fund (HTF) and the Aquatic Resources Trust Fund (ARTF) through FY 2009.
- **Excise tax extension.** Extends the excise taxes that fund these trust funds (at current rates) through FY 2011 and updates the purposes for which trust fund money may be spent to reflect the underlying bill.
- **Modification of anti-deficit rule.** Modifies the anti-deficit rule so that state apportionments are adjusted if unfunded authorizations exceed four years of expected trust fund receipts (rather than two years as under current law).
- **Dedication of full fuel tax.** Dedicates the full tax on fuel used in motorboats and small-engine outdoor power equipment to the ARTF beginning in FY 2006, as scheduled under current law.

REDUCING FUEL TAX EVASION

Increase HTF Receipts by \$1,955 million through FY 2009

- **Taxation of kerosene.** Kerosene can be used as diesel or aviation fuel. Since aviation fuel is subject to a lower tax rate than diesel, evasion can occur if individuals pay the lower rate for aviation fuel, but then divert the fuel to highway use. The provision reduces the potential for fraud by taxing kerosene at the diesel rate of 24.4 cents-per-gallon unless it is delivered into the wing of an airplane. A refund is available if the fuel is ultimately used for aviation purposes. *Raises \$1,918 million for the HTF through FY 2009.*
- **Repeal of ultimate vendor claims with respect to farming.** Fuel evasion occurs when tax-exempt fuel intended for farming purposes is diverted to taxable uses. The provision requires farmers to pay tax when they buy clear (i.e., taxable) diesel and claim a refund for amounts used for farming purposes. Farmers may continue to buy tax-free diesel if it is dyed.
- **Registration upon change of ownership.** Entities liable for the payment of fuel taxes are required to register with the IRS. The provision requires entities to re-register with the IRS upon a change of ownership.

- **Require registration of large draft vessels.** Present law requires registration of ships and barges for tax-exempt bulk transfers of fuel. The provision extends this requirement to large draft vessels, which are currently exempt from the registration requirement.
- **Reconciliation of on-loaded cargo.** Requires Department of Homeland Security and Treasury to transmit information to the IRS pertaining to taxable fuels destined for importation into the United States.
- **Penalty for adulterated fuel.** Some entities reduce their fuel tax liability by blending untaxed, adulterated fuel with taxable fuel. The provision imposes a \$10,000 penalty for anyone who knowingly sells diesel that does not comply with EPA low sulfur diesel regulation

TAX-EXEMPT BOND FINANCING

- Provides \$15 billion of tax-exempt bond financing authority to finance highway projects and rail-truck transfer facilities. Bonding authority would be allocated by the Department of Transportation and would not be subject to the aggregate volume caps for private activity bonds. The authority to issue bonds expires after December 31, 2015. Eligible projects must receive Federal assistance under Title 23 (Highways) or Title 49 (Transportation). However, the provision is not intended to expand the scope of any federal requirement beyond its application under present law and does not broaden the application of any federal requirement under present law in Title 49.

MISCELLANEOUS PROVISIONS

- Requires credit card companies that allow tax-exempt fuel purchases on their credit cards to register with the IRS and to be the party responsible for claiming refunds of the tax.
- Establishes a bipartisan Motor Fuel Tax Enforcement Advisory Commission to review fuel tax collections and to submit recommendations for improving enforcement of fuel tax collections.
- Establishes a National Surface Transportation Infrastructure Financing Commission to report on the sufficiency of HTF revenues and alternative approaches for generating trust fund revenues.
- Directs the Internal Revenue Service to report on new technologies that can be used to reduce diesel fuel tax evasion, including the use of chemical markers.
- Directs the Secretary of the Treasury to conduct a study regarding the amount of fuel used by trucks to operate equipment that is not related to the transportation function of the vehicle. The study will propose options for exempting this fuel from tax, if administratively feasible.
- Provides that a railroad real estate investment trust that becomes 100 percent owned by a State will be taxed as if its income from the performance of essential governmental functions accrued directly to the State.

EXCISE TAX SIMPLIFICATION AND REFORMS

Highway Excise Taxes

- Exempts limousines weighing more than 6,000 pounds from the gas guzzler tax. Under current law, all other automobiles above this weight threshold are already exempt from the tax.
- Exempts tractors weighing 19,500 pounds or less from the heavy vehicle tax if the gross combined weight of the tractor and a towed vehicle does not exceed 33,000 pounds.
- Subjects special motor fuels (except methanol) to the full fuel tax and provides a 50-cent excise tax credit. The credit also applies to P-Series fuels, liquefied hydrogen, liquid hydrocarbons derived from biomass, and liquid fuel derived from coal using the Fischer-Tropsch process. *Increases HTF receipts by \$32 million through FY 2009,*

Aquatic Excise Taxes

- Simplifies and restructures the Aquatic Resources Trust Fund.
- Repeals the Harbor Maintenance Tax on exports. This tax has been ruled unconstitutional.
- Caps the excise tax on fishing rods and poles at \$10.

Aerial Excise Taxes

- Exempts agricultural aerial applicators from aviation fuel taxes.
- Exempts fixed-wing aircraft engaged in timber activities from the ticket tax if the aircraft is not using any Federally-funded airport and airway services. This exemption already applies to helicopters under current law.
- Modifies the definition of a rural airport to include airports that are not connected to another airport by paved roads.
- Exempts seaplanes from the ticket tax and air cargo tax as long as the places where takeoff and landing occur have not received any financial assistance from the Airport and Airways Trust Fund.
- Clarifies that helicopters are not subject to the ticket tax when used solely for sightseeing flights.

Alcohol Excise Taxes

- Repeals special occupational taxes on producers and marketers of alcoholic beverages, as recommended in the Joint Committee on Taxation's 2001 simplification report.
- Provides an income tax credit for distilled spirits wholesalers and control state bailment warehouses to help compensate them for the costs of carrying federal excise taxes on bottled distilled spirits in inventory – a cost that is not incurred by imported products.
- Simplifies tax reporting for small businesses that pay alcohol excise taxes by allowing quarterly reporting instead of bi-monthly reporting.

Sports Excise Taxes

- Clarifies that custom gunsmiths (i.e., those that manufacture less than 50 items annually) are not subject to the firearms excise because custom firearms are not used for hunting purposes.